

RECEIVED
CENTRAL FAX CENTER

NOV 21 2006

REMARKS

The current patent application has been reviewed in light of the non-final Office Action, dated June 7, 2006, (hereinafter "the office action"). In the office action, claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Someya (US Pat. No. 9,952,972) in view of Applicant's admitted prior art. Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagano (US Pat. No. 5,920,408) in view of Applicant's admitted prior art. Further, the specification is objected to because page 2, paragraph [0007], line 2, "display 600" should read – device 600 –. Entry and consideration of the above amendments and the following remarks is respectfully requested.

The specification has been amended as suggested by the Examiner on page 2, paragraph [0007], line 2, "display 600" has been corrected to read as "device 600." Further, on page 7, paragraph [0035], line 6, "greed" has been corrected to read as "green."

New claim 12 has been added. Support for the new claim is found, among other places, in Fig. 2 and paragraph [0022] of the specification. No new matter has been added.

Claims 5 and 11 have been amended. Assignee has amended claims to more clearly delineate intended subject matter. The amendments to the claims are made without prejudice or disclaimer, and Assignee believes that none of these claim amendments constitute narrowing amendments. In fact, some of these claim amendments are intended to be broadening amendments. Accordingly, Assignee does not intend to surrender claimed subject matter by submission of the above amendments and no prosecution history estoppel should apply.

Claim Rejections – 35 U.S.C. § 103

Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Someya (U.S. Pat. No. 4,952,972) in view of Applicant's admitted prior art.

Assignee traverses the rejection. Assignee submits that the Examiner failed to properly establish a *prima facie* case of obviousness because the cited documents do not teach or suggest all of the claim limitations. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

AVAILABLE COPY

Claim 5 has been amended to clarify that the color adjusting method of the claimed invention includes *detecting a color having insufficient intensity outputted by the optical detector and replacing the light source with a color light source having color selected from a group consisting of red, green and blue colors to reflect and enhance intensity of the color detected to have insufficient output intensity*. For example, if the intensity of the color red outputted by the optical detector is found insufficient, a red light source is used. Support for the amendment is found, among other places, on page 7, paragraph [0035] of the specification.

Someya teaches detecting light intensities of light from a light source and discriminating the life expiration of the light source by obtaining a relative ratio of chroma signals of light with two or more types of wavelengths at the light intensities detected by the detector. See Abstract. Someya teaches checking whether the ratio of the R, G, and B components has changed from a predetermined value to determine whether or not the life of the light source has expired. See FIGS. 3A, 3B, 4A, and 4B; col. 9, line 49 – col. 10, line 53.

Contrary to the Examiner's assertion, Someya does not teach or suggest using a color light source having color selected from a group consisting of red, green and blue colors to reflect and enhance intensity of the color detected to have insufficient output intensity, as recited in claim 5 of the invention.

Accordingly, the Examiner's rejection under § 103(a) is improper and should be withdrawn.

Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nagano (U.S. Pat. No. 5,920,408) in view of Applicant's admitted prior art.

Applicant traverses the rejection. Assignee submits that the Examiner failed to properly establish a *prima facie* case of obviousness because the cited documents do not teach or suggest all of the claim limitations.

Claim 11 has been amended to clarify that the claimed optical scan module comprises a color light source having color selected from a group consisting of red, green, and blue colors according to an insufficient color intensity outputted by an optical detector. Support for the amendment is found, among other places, on page 7, paragraph [0035] of the specification.

Nagano does not teach or suggest the claimed optical scan module comprising the light source having color selected according to color output intensities measured from an

BEST AVAILABLE COPY

optical detector. Instead, Nagano discloses a color image reader that can provide fast scanning. The reader comprises three fluorescent lamps of red, green, and blue, a lighting circuit for lighting the three lamps sequentially, a CCD for reading an image illuminated by the three lamps, and a control circuit for controlling a lighting period of each of the lamps and the reading of the CCD. In Nagano, each of the fluorescent lamp is lit and the CCD performs the fast reading in a period corresponding to the lighting period. See Abstract.

Thus, the cited documents do not teach or suggest all of the claim limitations. Accordingly, the Examiner's rejection under § 103(a) is improper and should be withdrawn.

It is noted that claimed subject matter may be patentably distinguished from the cited document for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

CONCLUSION

In view of the foregoing, it is respectfully asserted that all of the claims pending in the present patent application are in condition for allowance. If the Examiner has any questions, she is invited to contact the undersigned at (503) 439-6500. Entry of this amendment and reconsideration of the present patent application in view of the same, and early allowance of all the claims is respectfully requested. Please charge any underpayments or credit any overpayments to deposit account no. 50-3703.

Respectfully submitted,

Dated: 21 Nov 2006

Celia C. Dunham
Celia C. Dunham
Reg. No. 49,041

Customer No. 43831

Berkeley Law and Technology Group, LLC
1700 NW 167th Place, Suite 240
Beaverton, OR 97006
Telephone: 503-439-6500